

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

GUSTAVO GOMEZ,

Plaintiff

v.

RSC EQUIPMENT RENTAL INC., an
Arizona corporation,

Defendant.

NO. CV-08-009-JLQ

**ORDER GRANTING MOTION
FOR REMAND AND CLOSING
FILE**

Pursuant to this court's Order entered March 7, 2008 (Ct. Rec. 10) and the parties' Stipulation Capping Plaintiff's Damages and Recovery to \$75,000 (Ct. Rec. 11), the court hereby grants Plaintiff's Motion for Remand (Ct. Rec. 5). The binding stipulation by Plaintiff, which shall also be filed in the state court action, stating that he does not seek, will not ask for, and waives his right to recover or accept an amount in damages, costs and attorney fees in excess of \$75,000, protects both Plaintiff and Defendant. The court finds with legal certainty that the amount in controversy at the time of removal did not and does not exceed \$75,000. This court lacks subject matter jurisdiction and must, therefore, remand the case to state court pursuant to 28 U.S.C. § 1447©. *See Bruns v. NCUA*, 122 F.3d 1251, 1257 (9th Cir.1997) ("Section 1447© is mandatory, not discretionary")

ACCORDINGLY, IT IS HEREBY ORDERED that

1. Plaintiff's Motion to Remand (Ct. Rec. 5) is GRANTED;
2. Plaintiff shall file in state court the stipulation (Ct. Rec. 11) filed in this court;
3. The Clerk of the Court shall take all appropriate administrative action to remand

1 this case to Chelan County Superior Court, Case No. 07-2-01199-9, and CLOSE THE
2 FILE.

3 The Clerk is hereby directed to enter this Order and furnish copies to counsel.

4 **DATED** this 17th day of March, 2008.

5 s/ Justin L. Quackenbush
6 JUSTIN L. QUACKENBUSH
7 SENIOR UNITED STATES DISTRICT JUDGE
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